

Regular Meeting

| | |
|----------------------|----------------------------------|
| Agenda Item # | 4 |
| Meeting Date | 25 July 2005 |
| Prepared By | Sara Anne Daines HCD Director |
| Approved By | Barbara Matthews City Manager |

| | | | | | | | |
|---------------------------------|--|---------------------------------|-----------------|-------------------------------|-------------|---------------------|-------------|
| Discussion Item | 2 nd Reading Ordinance Authorizing Execution of Payment in Lieu of Taxes (“PILOT”) Agreement with MHP Edinburgh House, Inc. | | | | | | |
| Background | <p>MHP Edinburgh House, Inc., a subsidiary of the Montgomery Housing Partnership (MHP) and owner of the Edinburgh House (7513 Maple Avenue), has requested an extension of its 1995 PILOT Agreement. The original agreement, which expired June 30, 2005, was executed by the City in August of 1995. It provided a ten-year reduction in municipal property taxes as permitted under the §7-503 of the Tax-Property Article of the <u>Annotated Code of Maryland</u>.</p> <p>This is the second reading of an ordinance authorizing the execution of a new PILOT Agreement with MHP Edinburgh House, Inc.. If approved, the Agreement would provide for a fifty percent reduction in real property taxes for a five-year period (tax levy years 2005-2009). A condition of the agreement is that fifty percent of the apartments leased to new tenants after August 1, 2005 will be occupied by low and/or moderate income residents as defined by the U.S. Department of Housing and Urban Development (HUD).</p> <p>The first reading of the ordinance was held on July 18, 2005.</p> | | | | | | |
| Policy | “The City Council of the City of Takoma Park supports the provision, enhancement, and protection of affordable housing opportunities throughout our community for all of our citizenry. Working in cooperation with our residents, community leaders, and housing providers, we will provide staff resources and, when available, financial assistance to programs and projects which further our affordable housing goals. We will offer political support to our partners, endorsing affordable housing efforts of other public entities and nonprofit organizations.” | | | | | | |
| Fiscal Impact | <p>Value of requested PILOT for tax levy year 2005 (July 1, 2005 - June 30, 2006):</p> <table> <tr> <td>Assessment (as of July 1, 2005)</td><td>\$ 1,461,266.00</td></tr> <tr> <td>100% Takoma Park Property Tax</td><td>\$ 9,205.98</td></tr> <tr> <td>50% PILOT Requested</td><td>\$ 4,602.99</td></tr> </table> | Assessment (as of July 1, 2005) | \$ 1,461,266.00 | 100% Takoma Park Property Tax | \$ 9,205.98 | 50% PILOT Requested | \$ 4,602.99 |
| Assessment (as of July 1, 2005) | \$ 1,461,266.00 | | | | | | |
| 100% Takoma Park Property Tax | \$ 9,205.98 | | | | | | |
| 50% PILOT Requested | \$ 4,602.99 | | | | | | |
| Attachments | <ul style="list-style-type: none"> Ordinance authorizing PILOT Agreement with MHP Edinburgh House, Inc. PILOT Agreement | | | | | | |
| Recommendation | To approve the 2 nd reading of the Ordinance | | | | | | |

| | |
|----------------------------------|--|
| | |
| Special Consideration | The Agreement, if approved, would be effective July 1, 2005. |

Introduced by: Councilmember Seamens

First Reading: July 18, 2005

Second Reading:

Effective Date:

ORDINANCE NO. 2005-23

(An Ordinance Authorizing the City to Enter Into an Agreement with MHP Edinburgh House, Inc. for a Payment in Lieu of Taxes for the Property at 7513 Maple Avenue)

WHEREAS, MHP Edinburgh House, Inc., a nonprofit corporation and a subsidiary of the Montgomery Housing Partnership, Inc., is the owner of the Edinburgh House apartments located at 7513 Maple Avenue, Takoma Park, Maryland; and

WHEREAS, the Edinburgh House apartments provide affordable housing to residents with low and moderate incomes; and

WHEREAS, approximately 89% of the apartments at the Edinburgh House are currently occupied by households with incomes of less than 80% of the Montgomery County median household income; and

WHEREAS, the Council supports the provision and protection of affordable housing in the City; and

WHEREAS, in order to ensure that the Edinburgh House continues to serve low and moderate income residents, MHP Edinburgh House, Inc. will agree with the City that at least 50% of the apartments rented at the Edinburgh House on or after August 1, 2005, will be occupied by low or moderate income households; and

WHEREAS, under Section 7-503(a) of the Tax-Property Article of the Annotated Code of Maryland, a nonprofit tax-exempt corporation that operates or manages rental housing that serves low-income households may be eligible under certain conditions to make a payment in lieu of taxes ("PILOT") on the real property; and

WHEREAS, MHP Edinburgh House, Inc. has represented that it qualifies under the provisions of Section 7-503 to enter into an agreement with the City to pay a negotiated amount in lieu of City real property taxes on the Edinburgh House; and

WHEREAS, on August 22, 1995, the City entered into a PILOT Agreement with MHP Edinburgh House, Inc. which expired on June 30, 2005; and

WHEREAS, MHP Edinburgh House, Inc. has requested an extension and modification of the 1995 PILOT Agreement with the City and a 50% reduction in City real property taxes on the Edinburgh House; and

WHEREAS, the Council finds that a PILOT Agreement with MHP Edinburgh House, Inc., providing for the payment of 50% of City real property taxes for the Edinburgh House for a period of five years, serves a public purpose and promotes the peace, health, and general welfare of the City and its residents by preserving affordable housing for residents with low and moderate incomes.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND.

SECTION 1. The Council approves a payment in lieu of taxes agreement with MHP Edinburgh House, Inc. for the property known as Edinburgh House apartments at 7513 Maple Avenue, Takoma Park, Maryland as follows:

- A. For tax levy years 2005 through 2009, MHP Edinburgh shall pay to the City in lieu of City real property taxes an amount equal to 50% of the amount of City real property tax on the property known as Edinburgh House apartments at 7513 Maple Avenue, Takoma Park, Maryland; and
- B. A minimum of 50% of the units of the Edinburgh House apartments leased to new tenants by MHP Edinburgh on or after August 1, 2005, shall be occupied by low or moderate income households (*i.e.*, households with incomes less than 80% of the Montgomery County median household income).

The City Manager is authorized to enter into a PILOT Agreement on behalf of the City with MHP Edinburgh House, Inc., under the provisions of Section 7-503(a) of the Tax-Property Article of the Annotated Code of Maryland, for the property known as Edinburgh House apartments at 7513 Maple Avenue, Takoma Park, Maryland and to take such actions and execute such documents as are necessary in order to carry out the purposes of this Ordinance.

SECTION 2. This Ordinance shall be effective on July 1, 2005, which was the beginning of tax levy year 2005.

Adopted this ____ day of _____, 2005, by roll-call vote as follows:

Aye:

Nay:

Absent:

Abstain:

C:\Agenda Items\07-25-05\Edinburgh PILOT Ordinance 07.25.05 FINAL.wpd

**AGREEMENT BETWEEN THE CITY OF TAKOMA PARK, MARYLAND
AND MHP EDINBURGH HOUSE, INC.**

THIS AGREEMENT for Payment in Lieu of Taxes ("PILOT"), made this _____ day of _____, 2005, by and between the City of Takoma Park, Maryland (hereinafter referred to as "City"), a municipal corporation, 7500 Maple Ave., Takoma Park, MD 20912, and MHP Edinburgh House, Inc., a non-profit corporation (hereinafter referred to as "MHP Edinburgh") and a subsidiary of the Montgomery Housing Partnership, Inc., 11160 Viers Mill Road, #503, Wheaton, MD 20902.

WHEREAS, MHP Edinburgh is a non-profit corporation organized under the laws of the State of Maryland for the purposes and with the power to acquire or construct, own, and operate rental housing for low and moderate income persons; and

WHEREAS, MHP Edinburgh is exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code and also is exempt from state income tax pursuant to Section 10-104 of the Tax-General Article, Annotated Code of Maryland; and

WHEREAS, MHP Edinburgh is the owner of the Edinburgh House apartment building at 7513 Maple Ave., Takoma Park, MD 20912 (hereinafter the "Property"); and

WHEREAS, following its acquisition of the Property in August 1995, MPH Edinburgh substantially rehabilitated the Edinburgh House apartment building and received financing for this rehabilitation work from Montgomery County through the Department of Housing and Community Affairs' Housing Initiative Fund; and

WHEREAS, in connection with this financing program, MHP Edinburgh entered into a regulatory agreement with Montgomery County to serve low or moderate income persons in at least 50% of the apartment units of the Property; and

WHEREAS, under Section 7-503(a) of the Tax-Property Article, Annotated Code of Maryland, a non-profit corporation that is exempt from income tax under Section 10-104 of the Tax-General Article, Annotated Code of Maryland may be eligible under certain conditions to make a payment in lieu of municipal corporation real property taxes ("PILOT"); and

WHEREAS, MHP Edinburgh represents that it qualifies in all respects, under the provisions of Section 7-503 of the Tax-Property Article, Annotated Code of Maryland, to enter into an agreement with the City to pay a negotiated amount in lieu of City real property taxes for the Property; and

WHEREAS, on July [REDACTED], 2005, the City Council adopted Ordinance No. 2005-[REDACTED], approving the payment by MHP Edinburgh of a negotiated amount in lieu of City real property taxes on the Property, subject to the terms and conditions set forth in that Ordinance which have been incorporated into this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions hereof, and subject to Section 7-503 of the Tax-Property Article, Annotated Code of Maryland, the parties agree as follows:

1. PILOT Payments. For tax levy years 2005 through 2009, MHP Edinburgh shall pay to the City in lieu of City real property taxes, and the City agrees to accept, an amount equal to 50% of the amount of City real property tax on the Property.
2. Rights of Appeal. Nothing in this Agreement shall be construed to deny MHP Edinburgh any rights of appeal and other administrative relief as a property owner under Section 8-401 et. seq. of the Tax-Property Article, Annotated Code of Maryland.
3. Conditions. The continued right of MHP Edinburgh under this Agreement to make the PILOT payments set forth in paragraph 1 shall be conditioned upon compliance at all times during the term of this Agreement with the following:
 - a. MHP Edinburgh shall comply with the "requirements for exemption" set forth in Section 7-503(a) of the Tax-Property Article, Annotated Code of Maryland, as now or hereafter amended.
 - b. A minimum of 50% of the units of the Property leased to new tenants by MHP Edinburgh on or after August 1, 2005, shall be occupied by low or moderate income households (*i.e.*, households with incomes less than 80% of the Montgomery County median household income). MHP Edinburgh shall provide proof of compliance with this provision upon

the written request of the City.

c. MHP Edinburgh shall notify the City of the sale or other transfer, assignment, or termination of the Property as eligible for the PILOT payments under this Agreement at least 30 days prior to the effective date of any such event.

d. By April of each year of this Agreement, MHP Edinburgh shall file verified annual compliance reports, as of January 1 of that year, with the City. The City shall accept as meeting the reporting requirements of this paragraph 3 any compliance reports promulgated by, or then accepted by, the Montgomery County Department of Housing and Community Affairs and any successor thereto, as may be applicable to the Property.

4. Termination. This Agreement may be terminated by the City, as of June 30 of any tax levy year, upon 30 days' written notice to MHP Edinburgh, upon the happening of any of the following events:

a. The City is no longer authorized to extend to MHP Edinburgh the benefits of this Agreement as a result of the repeal or substantial amendment of the applicable sections of the Annotated Code of Maryland.

b. MHP Edinburgh no longer qualifies for the PILOT under Section 7-503 of the Tax Property Article, Annotated Code of Maryland.

c. An event of bankruptcy of MHP Edinburgh.

d. Any breach or default by MHP Edinburgh of any of the provisions of this Agreement.

5. Effective Date; Expiration. The effective date of this Agreement is July 1, 2005, and this Agreement will remain in effect until June 30, 2010 (the end of the 5th tax levy year from the effective date) or until earlier terminated pursuant to paragraph 4 above.

IN WITNESS WHEREOF, the parties have signed this Agreement, under seal, as of the day and year first written above.

Attest:

CITY OF TAKOMA PARK, MARYLAND

By: _____ (SEAL)
Barbara B. Matthews, City Manager

Date signed: _____

Attest:

MHP EDINBURGH HOUSE, INC.

By: _____ (SEAL)
Print Name: _____
Title: _____

Date signed: _____

Approved as to legal form and sufficiency:

Linda S. Perlman
Assistant City Attorney
City of Takoma Park

Date signed: _____

C:\Agenda Items\07-25-05\Edinburgh PILOT Agreement 07.25.05.wpd